

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DARRELL LECKIE,

Plaintiff,

-against-

CITY OF NEW YORK, et al.,

Defendants.

ORDER

19 Civ. 6719 (PGG) (RWL)

21 Civ. 7212 (PGG) (RWL)

PAUL G. GARDEPHE, U.S.D.J.:

On July 18, 2019, Plaintiff filed the Complaint in Leckie v. City of New York, et al., 19 Civ. 6719 (PGG) (“Leckie I”), alleging claims under 42 U.S.C. § 1983 for inadequate treatment of his dental pain while in custody at Riker’s Island. (Dkt. No. 1) On March 2, 2021, this Court granted Defendants’ request to stay discovery pending a proposed motion to dismiss. (Dkt. No. 114) On March 23, 2021, Defendants City of New York, New York City Health and Hospital Corporation, and Allan Matthew filed a motion to dismiss the Complaint. (Dkt. No. 115) On November 11, 2021, this Court referred the motion to Magistrate Judge Lehrburger for a report and recommendation. (Dkt. No. 124)

On August 26, 2021, Plaintiff initiated a separate action, captioned Leckie v. Napoli, et al., 21 Civ. 7212 (PGG) (“Leckie II”), alleging similar claims under 42 U.S.C. § 1983 against New York state correctional officials pertaining to Plaintiff’s dental pain while in state custody. (Dkt. No. 1) On September 9, 2021, Plaintiff’s counsel filed a statement of relatedness, noting that

[t]he newly filed case is based on the same transaction and/or occurrence as the earlier filed case. Specifically, both cases relate[] to serious physical injuries, including sepsis and hearing loss that the plaintiff sustained as [a] result of medical malpractice and deliberate indifference committed by the defendants

from approximately April 24, 2018 until August of 2021 while plaintiff went back and forth between City and State's custody.

(Leckie II, 21 Civ. 7212 (PGG), Sept. 9, 2021 Statement of Relatedness (Dkt. No. 11) at 2)

On September 14, 2021, this Court accepted Leckie II as related to Leckie I. On December 3, 2021, Defendants Debbie Napoli, Khondkar Rakib, Tammy Hyatt, and Jordan Laguio submitted a pre-motion letter seeking leave to file a motion to dismiss the claims in Leckie II. (Dkt. No. 20) In a January 20, 2022 order, this Court set a briefing schedule concerning the proposed motion to dismiss. (Dkt. No. 27)

Because these cases arise out of the same alleged injury, involve common claims of medical malpractice and deliberate indifference, and concern a time period in which Plaintiff was allegedly shuttling back and forth between City and State custody, the motions to dismiss should be considered together, in order to avoid duplicative motion practice and promote judicial economy.

Accordingly, Defendants' motion to dismiss in Leckie I (19 Civ. 6719 (PGG), Dkt. No. 115) is denied without prejudice. The Leckie I Defendants may renew their motion once the motion to dismiss in Leckie II is fully briefed. The Clerk of Court is directed to terminate the motion in Leckie I (Dkt. No. 115).

Dated: New York, New York
March 4, 2022

SO ORDERED.



Paul G. Gardephe
United States District Judge